

LMC
Robinson J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY a/s/o
YVONNE PARKER,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.
----- X

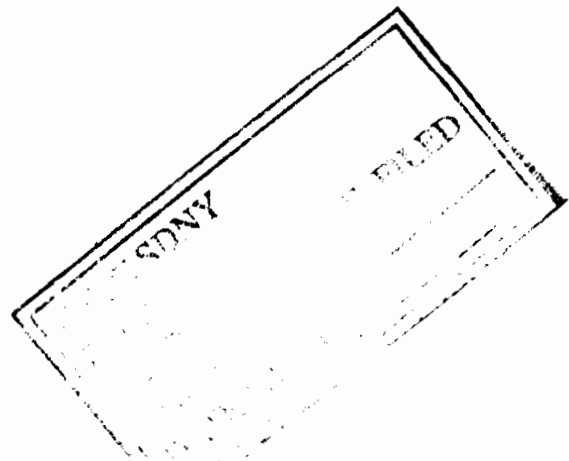
08 Civ. 2799 (SCR) (LMS)
ECF Case

**STIPULATION AND ORDER
OF DISMISSAL OF ACTION**

WHEREAS, on or about March 17, 2008, plaintiff State Farm Mutual Automobile Insurance Company a/s/o Yvonne Parker commenced the above-titled action against defendant United States of America, alleging negligence arising out of an accident on October 26, 2006, involving an automobile owned by defendant through its subdivision, the United States Department of Labor, and operated by an employee of defendant (the "Action"); and

WHEREAS, plaintiff alleges that on or about January 19, 2007, an administrative claim was duly filed against the United States of America pursuant to 28 C.F.R. § 14.2 (the "Claim") and that defendant has failed to respond to the Claim; and

WHEREAS, defendant is unable to locate records indicating that the Claim was received by the appropriate federal agency, in this case, the United States Department of Labor; and



WHEREAS, it appears from the face of the Claim that it was sent to an incorrect mailing address, "20 Varick Street, New York, New York 10014," as opposed to the correct address, 201 Varick Street, New York, New York 10014; and

WHEREAS, pursuant to 28 U.S.C. § 2675(a), plaintiff desires to submit its Claim to the appropriate federal agency—in this case the United States Department of Labor—for adjudication prior to prosecuting the above-titled action;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between plaintiff and defendant, by their respective counsel, as follows:

1. Plaintiff's claims against defendant United States of America are dismissed without prejudice and without costs or attorney's fees to any party.
2. The parties understand and agree that this stipulation does not waive any rights of any party under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-80, or any other applicable law; and
3. The parties understand and agree that this stipulation contains the entire agreement between them, and that no statements, representations, promises, agreements, or

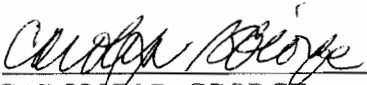
negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

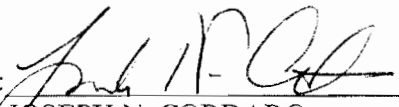
Dated: Albany, New York
April ___, 2008

Dated: New York, New York
April 24, 2008

FRIEDMAN, HIRSCHEN & MILLER, LLP
Attorneys for Plaintiff

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Defendant

By: 
CAROLYN B. GEORGE
100 Great Oaks Boulevard, Suite 124
P.O. Box 38279
Albany, New York 12203
Telephone: (518) 377-2225
Facsimile: (518) 377-2247
Email: Cgeorge@friedmanhirschen.com

By: 
JOSEPH N. CORDARO
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
Telephone: (212) 637-2745
Facsimile: (212) 637-2686
Email: joseph.cordaro@usdoj.gov


SO ORDERED.

Dated: White Plains, New York
✓ may ~~April~~ 6, 2008


HON. STEPHEN C. ROBINSON
UNITED STATES DISTRICT JUDGE